

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
October 6, 2008

D053030 In re Erika S., a Juvenile

The order is affirmed. Aaron, J.; We Concur: Huffman, Acting P.J., Nares, J.

D050794 Stillwell v. The Salvation Army

The April 12, 2007 judgment is reversed. The case is remanded to the trial court with directions to deny TSA's motion for judgment notwithstanding the verdict, to grant TSA's motion for a new trial, and to conduct any further proceedings in a manner consistent with this opinion. Each party shall bear its own costs on appeal. CERTIFIED FOR PUBLICATION. Aaron, J.; Huffman, Acting P.J., Nares, J.

D053775 In re Ruben E., a Juvenile

The notice of appeal filed September 19, 2008, has been considered by Associate Justice McIntyre, Presiding Justice McConnell and Associate Justice McDonald. The notice of appeal is untimely and is dismissed.

D053044 People v. Lewis

Upon filing an abandonment of appeal, personally signed by the defendant, the appeal is dismissed and the remittitur is ordered to issue immediately. (Cal. Rules of Court, rule 8.316.)

D051031 Jones v. Barrett et al.

The order is affirmed. The cross-defendants are awarded sanctions of \$3,905.91 against Jones, and costs on appeal to the extent they are not covered by the sanctions award. McConnell, P.J.; We Concur: Huffman, J., Aaron, J.

D053599 Spencer v. Superior Court of San Diego County/People

The petition is denied.

**D053416 Solomon Ward Seidenwurm & Smith v. Superior Court of San Diego
County/Ellery**

The petition is denied.

D053736 Nordstrom, Inc. v. Superior Court of San Diego County/Ulloa

The petition is denied.

D053417 Oasis MSO, Inc. v. The Superior Court of San Diego County/Ellery

The petition is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
October 7, 2008

D053168 In re Mario B. et al., Juveniles

The appeal is dismissed. Nares, Acting P.J.; We Concur: Haller, J., O'Rourke, J.

D048964 Lair et al. v. Vinci et al.

The portion of the judgment directing Lair and Vinci to bear their own attorney fees and costs is reversed and remanded for the trial court's determination of the amount of reasonable attorney fees incurred by Vinci (in the trial court and on appeal) on the Lancair note cause of action. In all other respects, the judgment is affirmed. We deny Lair's motions to dismiss Vinci's cross-appeal and for reimbursement of attorney fees. The parties shall otherwise bear their own costs on appeal. O'Rourke, J.; We Concur: McConnell, P.J., Haller, J.

D053093 In re V.B., a Juvenile

The appeal is dismissed. Huffman, Acting P.J., We Concur: Nares, J., Irion, J.

D053227 In re E.C., a Juvenile

The appeal is dismissed. Benke, Acting P.J.; We Concur: Huffman, J., Irion, J.

D051208 O'Leary v. Awbrey et al.

The judgment is affirmed. The defendants are entitled to costs on appeal. McConnell, P.J.; We Concur: McDonald, J., Aaron, J.

D050997 People v. Beaver

The judgment is affirmed. Huffman, Acting P.J.; I Concur: Nares, J.; I Dissent: Irion, J.

D051460 Woodall v. Teeter

The order appealed from is affirmed. Huffman, J.; We Concur: McConnell, P.J., Nares, J.

D053173 In re Jordan H., a Juvenile

The appeal is dismissed. Benke, Acting P.J.; We Concur: Huffman, J., McDonald, J.

D048522 Bouton v. USAA Casualty Insurance Company

The order denying the petition to compel arbitration is reversed and the matter is remanded with directions that the trial court issue a new order vacating that order and thereafter conduct further proceedings consistent with this opinion. The parties shall bear their own costs on appeal. McDonald, J.; We Concur: Haller, Acting P.J., McIntyre, J.

D053750 Neighborhood Management Services, Inc. v. Superior Court of San Diego County/Island Dental Co., Inc.

The petition is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
October 7, 2008 (Continued)

D053548 Allen v. The Superior Court of Imperial County/Real Party in Interest

The petition is denied without prejudice to refiling in the event Allen's subsequent motions, if any, are rejected on the basis of a filing fee.

Court convened at 9:00 a.m.

Present: The Honorable Judith McConnell, Presiding Justice, and The Honorable Associate Justices Terry O'Rourke and Cynthia Aaron
Clerk: D. Moore

D051143 Gonzalez et al. v. Bailey et al.

Cause called on merits. Cathleen G. Fitch, Esq. argued for appellant. Tony J. Tanke, Esq. argued for respondent. Ms. Fitch replied. Cause submitted.

Court recessed at 9:30 a.m. to change panel members. New panel members: The Honorable Alex McDonald, Acting Presiding Justice, and The Honorable Associate Justices Terry O'Rourke and Cynthia Aaron

D052159 York et al. v. Navigators Insurance Company

Cause called on merits. Janis L. Turner, Esq. argued for appellant. Susan Feldsted Halman, Esq. argued for respondent. Ms. Turner replied. Cause submitted.

Court recessed at 9:39 a.m. until 1:30 p.m.

Court reconvened at 1:30 p.m. Present: The Honorable Judith McConnell, Presiding Justice, and The Honorable Associate Justices Alex McDonald and Terry O'Rourke
Clerk: D. Moore

D052175 Bricker v. Pursell

Cause called on merits. John Morris, Esq. argued for appellant. Kendra J. Hall, Esq. argued for respondent. Mr. Morris replied. Cause submitted.

D051032 Clymer et al. v. Pickford Real Estate Inc., et al.

Cause called on merits. Paul Sowa, Esq. argued for appellant. Elizabeth L. Bradley, Esq. argued for respondent. Mr. Sowa replied. Cause submitted.

Court recessed at 2:18 p.m. to change panel members. New panel members: The Honorable Judith McConnell, Presiding Justice, and The Honorable Associate Justices Judith Haller and Terry O'Rourke

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
October 7, 2008 (Continued)

D052193 Quin v. El Cajon Grand Cocktail Lounge

Cause called on merits. Robert H. Lynn, Esq. argued for appellant. William A. Markham, Esq. argued for respondent. Mr. Lynn replied. Cause submitted.

D050266 Tucker, Jr. v. Grossmont Union High School District

Cause called on merits. Paul V. Carelli, Esq. argued for appellant. Jon R. Williams, Esq. argued for respondent. Mr. Carelli replied. Cause submitted.

Court recessed at 3:01 p.m. to change panel members. New panel members: The Honorable Richard Huffman, Acting Presiding Justice, and The Honorable Associate Justices Gilbert Nares and Joan Irion

D051594 Masterson v. Robbins Research International Inc., et al.

Cause called on merits. David J. Wilson, Esq. argued for appellant. Joseph Socher, Esq. argued for respondent. Mr. Wilson replied. Cause submitted.

Court recessed at 3:29 p.m. until Wednesday, October 8, 2008 at 9:00 a.m.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
October 8, 2008

D053420 In re I.N., a Juvenile

The appeal is dismissed. Irion, J.; We Concur: O'Rourke, Acting P.J., Aaron, J.

D051123 People v. Moore

We vacate the sentence and remand for resentencing. In all other respects, the judgment is affirmed. Irion, J.; We Concur: Benke, Acting P.J., Huffman, J.

D053790 People v. Silva

The denial of a petition for writ of habeas corpus is not appealable. The appeal is DISMISSED.

D052665 Quinones v. Superior Court of San Diego County/People

The petition for rehearing is denied.

Court convened at 9:00 a.m.

Present: The Honorable Judith McConnell, Presiding Justice, and The Honorable Associate Justices Judith Haller and Alex McDonald

Clerk: D. Moore

D050042 Karen v. Huberman et al.

Cause called on merits. James Kahn, Esq. argued for appellant. Timothy C. Karen, Esq. argued for respondent. Cause submitted.

Court recessed at 9:09 a.m. to change panel members. New panel members: The Honorable Judith McConnell, Presiding Justice, and The Honorable Associate Justices Alex McDonald and Cynthia Aaron

D051556 Greystone Homes, Inc. v. Midtec, Inc.

Cause called on merits. Thomas Lance Vincent, Esq. argued for appellant. Lisa Willhelm Cooney, Esq. argued for respondent. Mr. Vincent replied. Cause submitted.

D050070 Stonecrest Square Auto Center, LLC v. Equilon Enterprises, LLC. et al.

Cause called on merits. Donald A. Vaughn, Esq. argued for appellant. Robin A. Wofford, Esq. argued for respondent. Mr. Vaughn replied. Cause submitted.

D051424 THC-Orange County, Inc. v. Schimsky

Cause called on merits. David A. Niddrie, Esq. argued for appellant. Helen A. Michels, Esq. argued for respondent. Mr. Niddrie replied. Cause submitted.

Court reconvened at 1:30 p.m.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

October 8, 2008 (Continued)

Present: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices Richard Huffman and Joan Irion
Clerk: D. Moore

D051911 People v. Bechtold

Cause called on merits. Nicholas De Pento, Esq. argued for appellant. Elizabeth Voorhies, Deputy Attorney General argued for respondent. Mr. De Pento replied. Cause submitted.

D051965 Janet C. et al. v. Robert L.

Cause called on merits. Robert Lundy, argued for appellant, in pro per. Janet Colmenero, argued for respondent in pro per. Mr. Lundy replied. Cause submitted.

D051391 Pacific Sunwear of California, Inc. v. Olaes Enterprises, Inc.

D052226 Pacific Sunwear of California, Inc. v. Olaes Enterprises, Inc.

Cause called on merits. Steven Lawson, Esq. argued for appellant (argued both cases). Alex E. Papaefthimiou, Esq. argued for respondent. Mr. Lawson replied. Cause submitted.

Court recessed at 3:12 p.m. until Friday, October 10, 2008 at 9:00 a.m.

D053704 Mary D. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency

The attorney for petitioner Mary D. has notified the court that a petition for writ of mandate under California Rules of Court, rules 8.452 and 5.600 will not be filed as there are no viable issues for writ review. The case is DISMISSED.

D052294 In re Esperanza C., a Juvenile

The appeal in the above-entitled case is dismissed as moot. (See *In re Esperanza C.* (2008) 165 Cal.App.4th 1042, 1063.)

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
October 9, 2008

D051391 Pacific Sunwear of California, Inc. v. Oleas Enterprises, Inc.

The judgment is reversed. CERTIFIED FOR PUBLICATION. Irion, J.; We Concur: Benke, Acting P.J., Huffman, J.

D052226 Pacific Sunwear of California, Inc. v. Olaes Enterprises, Inc.

Reversed. Irion, J.; We Concur: Benke, Acting P.J., Huffman, J.

D053219 Duenas v. Department of Motor Vehicles

Upon written request filed by appellant, the appeal is DISMISSED and the remittitur is ordered to issue immediately. (Cal. Rules of Court, rule 8.244(c)(2).)

D052164 Weiss v. Corfield

The appeal is dismissed as to the order granting the motion to change venue. The judgment dismissing the action is affirmed. Defendants are entitled to their costs on appeal. McIntyre, J.; We Concur: Haller, Acting P.J., O'Rourke, J.

D051680 Pender v. Waldenmayer et al.

The judgment is affirmed. The Developers are entitled to recover their costs on appeal. McIntyre, J.; We Concur: Huffman, Acting P.J., O'Rourke, J.

D053043 People v. Hogan

Upon filing an abandonment of appeal, personally signed by the defendant, the appeal is dismissed and the remittitur is ordered to issue immediately. (Cal. Rules of Court, rule 8.316.)

D051950 People v. Mann

**D051702 In re Mann on Habeas Corpus
(Consolidated)**

The judgment is affirmed; the petition for writ of habeas corpus is denied. McConnell, P.J.; We Concur: Benke, J., Haller, J.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
October 9, 2008 (Continued)

D053848 In re Warriner on Habeas Corpus

The petition for writ of habeas corpus has been read and considered by Presiding Justice McConnell and Associate Justices Benke and McDonald.

In this petition, Chance Warriner challenges a rules violation for conspiracy to introduce narcotics into the California Rehabilitation Center located in Norco, California, in Riverside County. Because the petition is based primarily on facts and conduct of correctional officials occurring outside this appellate district, we deny the petition without prejudice to refile in the Fourth Appellate District, Division Two, 3389 Twelfth Street, Riverside, CA 92501. (Cal. Rules of Court, rule 8.380(d)(1)(B) & (d)(3).)

The clerk of the court is directed to retain one copy of the petition and exhibits for our records, and to return the original petition and exhibits and all other copies to petitioner so he may file them in the appropriate court.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
October 10, 2008

D053838 In re R.V., a Juvenile

This matter has been reviewed by Associate Justice McDonald, Presiding Justice McConnell and Associate Justice Benke. On October 2, 2008, mother R.V. filed a notice of intent purporting to challenge a July 21, 2008 hearing. There was no hearing on July 21, 2008 and no Welfare and Institutions Code section 366.26 hearing has been set. The notice of intent is accordingly DISMISSED.

D051177 LTRT v. Friedman

Order affirmed. Benke, J.; We Concur: McConnell, P.J., McIntyre, J.

D053102 In re Aaliyah J. et al., Juveniles

The judgment is affirmed. Benke, Acting P.J.; We Concur: Nares, J., McDonald, J.

D047199 Donovan et al. v. Poway Unified School District et al.

The judgment for plaintiffs Ramelli and Donovan is affirmed, including the award of attorney fees in the amount of \$421,357. Plaintiffs are entitled to costs on appeal. CERTIFIED FOR PUBLICATION. Nares, J.; We Concur: McConnell, P.J., Benke, J.

D053640 Marianne M. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency

The attorney for petitioner Marianne M. has notified the court that a petition for writ of mandate under California Rules of Court, rules 8.452 and 5.600 will not be filed as there are no viable issues for writ review. The case is dismissed.

D050832 Sturgeon v. County Los Angeles

Judgment is reversed. Appellant to recover his costs on appeal. CERTIFIED FOR PUBLICATION. Benke, Acting P.J.; We Concur: Nares, J., Haller, J.

Court convened at 9:00 a.m.

Present: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices Gilbert Nares and Joan Irion

Clerk: D. Moore

D051991 In re Derek B., a Juvenile

Cause called on merits. Allison Simkin, Esq. argued for appellant. Billie Gibson, Certified Law Student argued for respondent. Ms. Simkin replied. Cause submitted.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
October 10, 2008 (Continued)

D052821 In re Aaron B. et al., Juveniles

Cause called on merits. Leslie A. Barry, Esq. argued for appellant. Gary Seiser, Deputy County Counsel argued for respondent. Susan Bookout, Esq. argued for the minor. Ms. Barry replied. Cause submitted.

D051168 Vigliotti v. Harkleroad

Cause called on merits. Bradley Robert Blamires, Esq. argued for appellant. Barbara A. Casino, Esq. argued for respondent. Mr. Blamires replied. Cause submitted.

Court recessed at 10:32 a.m. until Tuesday, October 14, 2008 at 9:00 a.m.

D053767 In re Arguilez on Habeas Corpus

The petition is denied.